

PATENT COOPERATION TREATY

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REC'D 11 OCT 2005

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference KSR-11552/08	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/IB2004/002216	International filing date (day/month/year) 06.07.2004		Priority date (day/month/year) 03.07.2003
International Patent Classification (IPC) or national classification and IPC B60T7/06, B60T17/22			
Applicant KSR INTERNATIONAL CO. et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> <i>sent to the applicant and to the International Bureau</i>) a total of sheets, as follows:</p> <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the opinion <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input checked="" type="checkbox"/> Box No. VII Certain defects in the international application <input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application 			
Date of submission of the demand 03.05.2005	Date of completion of this report 10.10.2005		
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Beckman, T Telephone No. +49 89 2399- 		

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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-7 as originally filed

Claims, Numbers

1-12 as originally filed

Drawings, Sheets

1/2-2/2 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

- The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
- This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-12
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

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Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following documents:

- D1: EP-A-0 680 863
- D2: US 2003/111328 A1
- D3: US-A-6 101 896

Novelty and inventive step:

1. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 does not involve an inventive step in the sense of Article 33(3) PCT.

The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and discloses (the references in parentheses applying to this document):

A brake pedal assembly for a vehicle with a support bracket containing an integral switch (7, 12), said brake pedal assembly comprising:
a pivot means (10) operatively supported between said first and second side walls;
a pedal arm (3) pivotally mounted onto said pivot means (10);
a pedal link (9) pivotally mounted onto said pivot means (10), and operatively connected to said pedal arm (3), wherein said pedal link (9) is a generally planar member;
at least one pair of contact posts disposed on said pedal link (9) and positioned so as to extend therethrough the corresponding arcuate slot (13) in said integral switch portion of said first side wall;
a conductive means operatively interconnecting each contact post in the pair of contact posts;
a brake booster means (2) operatively attached to said pedal link (9),
and said contact posts travel within the arcuate slot (13) in response to movement of the pedal arm (3) to electrically engage said switching means (7,12) and send an electrical signal to a component (5,8) in communication with the integral switch.

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- 1.1. The subject-matter of claim 1 therefore differs from this known brake pedal assembly in that claim 1 explicitly describes the details of the support bracket and a switch cover plate.
- 1.2. The problem to be solved by these features may be regarded as the complexity and expensiveness of assembling conventional pedal/switch assemblies (desc. p.1, I.24-28)
- 1.2. Fig.1 of document D1 shows a brake pedal assembly, providing the same advantages as in the present application. The skilled person would therefore regard it as a normal design option to include these features in the subject-matter described in document D1 in order to solve the problem posed.
2. The same reasoning applies, mutatis mutandis, to the subject-matter of the corresponding independent claims 6 and 10, which therefore are also considered not inventive.
3. Dependent claims 2-5, 7-9 and 11-12 do not seem to contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step, see documents D1-D3 and the corresponding passages cited in the search report.

Industrial applicability:

4. The invention can be used in the automotive industry.

Re Item VII and VIII:

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Further comments:

5. Although claims 1, 6 and 10 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought and/or in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.
- 5.1. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1-D3 is not mentioned in the description, nor are these documents identified therein.
- 5.2. Independent claims 1, 6 and 10 are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
- 5.3. The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).